

### REMARKS/ARGUMENTS

The foregoing amendments are submitted to place this application in better condition for examination and allowance. The claims of the parent application have been amended to overcome rejections of the Examiner's FINAL ACTION of October 21, 2002. No new matter has been added.

#### Claim Rejections – 35 USC §103(a)

Claims 1-17 are pending in this application. Claims 1 and 17 have been amended. The following issue is outstanding in the Office Action dated October 21, 2002:

- Claims 1-5, 10-13, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over JACOBS, et al., U.S. Patent No. 5,489,259 (hereinafter referred to as "Jacobs") in view of THORN et al., GB Patent No. 2,195,255 (hereinafter referred to as "Thorn").
- Claims 1-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over TUMEY, et al., U.S. Patent No. 5,443,440 (hereinafter referred to as "Tumey") in view of Thorn and Jacobs.

Applicant respectfully traverses the rejections and objections, and in light of the following remarks requests reconsideration and withdrawal thereof.

Examiner has rejected Claims 1-5, 10-13, and 17 under 35 U.S.C. §103(a) as being unpatentable over Jacobs in view of Thorn. A device is unpatentable under §103 only if it would have been obvious to one of ordinary skill in the art at the time of the invention to combine aspects of the references to obtain the invention. Applicant respectfully asserts that Claims 1 and 17 are not obvious in view of Jacobs and Thorn, and has amended Claims 1 and 17 to more

clearly illustrate the distinction over Jacobs in view of Thorn. Similarly, claims 1 and 17 are not obvious in view of Tumey, Jacobs, and Thorn. As all remaining claims are dependent upon claims 1 or 17, such claims are also asserted to be not obvious.

Examiner has stated that it would have been obvious to one of ordinary skill in the art to modify Jacobs to use the foot wrap in combination with a wound dressing as taught by Thorn. More precisely, Applicant asserts that Jacobs in fact *teaches away* from combining a wound dressing as taught by Thorn. The purpose of the invention in Jacobs is to normalize and *evenly* distribute the pressures acting on the body extremity being treated. (Please see Column 1, lines 22-23, 44-48, and 56-57). Contrary, and opposite to Jacobs, the present invention teaches the simultaneous application of differing pressures, resulting in *uneven* distribution of pressures on the extremity.

Additionally, Applicant respectfully asserts that claims as amended do not incorporate a dressing as taught by Thorn, as Thorn utilizes a dressing for applying subatmospheric pressure to the *surface* of the skin. The invention as claimed in amended claims 1 and 17 teach a dressing comprising a foam and drape in contact with and placed within a foot ulcer. As Thorn does not teach placement of a foam dressing within a wound bed, but rather a felt and cover combination on the surface of the skin, it would not have been obvious to one of ordinary skill in the art at the time of the invention to combine aspects of Thorn and Jacobs, or Tumey, Thorn and Jacobs to obtain the invention

Additionally, one of ordinary skill in the art would not have utilized Thorn as a wound dressing in combination with positive pressure treatment, as claimed in the present invention, as there is no teaching in Thorn that the felt layer would be suitable for use within an open wound.

In order to further clarify the invention, applicant has amended claims 1 and 17. Support for these amendments can be found in lines 7-11 of page 9 of the present application as originally filed, and therefore does not constitute new matter. Please note that by these amendments the scope of the claims has only been clarified, and not narrowed. No equivalents of the claimed subject matter are hereby surrendered. Withdrawal of the rejection of claims 1 and 17 is therefore respectfully requested. Since all remaining claims are dependent on claims 1 or 17, those claims should also be allowable. Withdrawal of the rejection of claims 1 - 17 is therefore respectfully requested.

Attached hereto is a marked-up version of the changes made to the application and claims by the current amendment. The attached page is captioned **"Version with markings to show changes made."**

Applicant respectfully requests favorable consideration.

Examiner is requested to contact the undersigned at (210) 255-4543 for any reason that would further the application to allowance.

Respectfully submitted,



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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

Claims 1 and 17 have been amended as follows:

1. (Amended) A medical apparatus for therapeutic treatment of foot ulcers, comprising:

a wound dressing for introduction of a negative pressure over a first region of a patient's foot including a wound; **wherein said wound dressing is comprised of a porous foam positioned within said foot ulcer, a drape for covering and sealing said foam within said foot ulcer, and a fluid communications means in fluid communication with said foam;**

a foot wrap having an inflatable bladder for applying a compressive force over a second region of said patient's foot, concurrent with the introduction of said negative pressure, to compress the veins of said patient's foot and thereby partially empty said veins;

a negative pressure source for supplying negative pressure to said wound dressing **through said fluid communication means;** and

a positive pressure source for supplying compressive force to said foot wrap.

17. (Amended) A medical apparatus for therapeutic treatment of foot ulcers, comprising:

a wound dressing for introduction of a negative pressure over a first region of a patient's foot including a wound; **wherein said wound dressing is comprised of a porous foam positioned within said foot ulcer, a drape for covering and sealing said foam within said foot ulcer, and a fluid communications means in fluid communication with said foam;**

a foot wrap having an inflatable bladder for applying a compressive force over a second region of the patient's foot, the second region at least partially overlapping the first region;

a negative pressure source that supplies negative pressure to the wound dressing **through said fluid communication means;** and

a positive pressure source that supplies compressive force to the foot wrap.